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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/965,856 | 10/01/2001 | Daisuke Kitazawa | 214418US2 | 4045 |
| 22850 | 7590 | 10/19/2006 | EXAMINER | |
| C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | NGUYEN, TUAN HOANG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2618 | |

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/965,856 | KITAZAWA ET AL. |
| | Examiner | Art Unit |
| | Tuan H. Nguyen | 2618 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 September 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/11/2006 has been entered.

In response to Applicant's remark on page 8, Applicant argues that the Purnadi et al. (U.S. PUB. 2001/0011299 hereinafter, "Purnadi") does not teach or suggest the claimed feature "required communication qualities reported from the radio terminals or communication connections respectively". Examiner respectfully disagrees with the Applicant's argument. The Applicant should refer to col. 6 lines 18-38, of the Purnadi reference where as the Examiner interpreted "required communication qualities reported from the radio terminals or communication connections respectively", i.e., in fig. 1 the mobile station (12) (read on radio terminals) is associated with an Home Location Register (28) (HLR). The HLR stores data (communication qualities reported), inter alia, forming a service degradation profile (SDP). The data stored at the HLR forming the service degradation profile is selectively utilized to provide for controlled degradation of communication service performance when communication resources

available for a communication session cannot assure that desired QoS level parameters can be achieved. Therefore, the teaching of Purnadi reference is read on the claimed feature.

Furthermore, Applicant argues that the Dupont (U.S. PAT. 5,729,542) does not disclose the feature of "allocating the resources to the first group based on a priority order and then allocating the radio resources to the radio terminals or connections in the second group based on a priority order in the second group after the first group is allocated". Examiner respectfully disagrees with the Applicant's argument. The Applicant should refer to fig. 4 - fig. 6 and col. 3 line 64 through col. 4 line 47, of the Dupont reference where as the Examiner interpreted the claimed feature, i.e., in GPRS proposal has been made for five QoS classes, based on the delay time for end to end throughput, therefore the connections in the second group based on a priority order in the second group after the first group is allocated.

Base on the above rational, it is believed that the claimed limitations are met by the combination of Purnadi and Dupont and therefore, the rejection are maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Purnadi et al. (U.S PAT. 6,201,971 hereinafter, "Purnadi") in view of Dupont (U.S PAT. 5,729,542).

Consider claims 1, 6, and 11, Purnadi teaches a radio communication system which allocates radio resource for a radio communication (col. 5 lines 63-65), radio communication system comprising a radio terminals, wherein each of radio terminals comprises a requiring part requiring a different communication quality to radio communication system for each radio terminal or communication connection (col. 5 lines 55-65, the communication quality intended to ensure an appropriate level of communication quality between the mobile station and the network infrastructure read on each of said radio terminals or communication connections requires a different

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communication quality), and radio communication apparatus comprises: a first retrieving part retrieving a first group including radio terminals or communication connections in which actual communication qualities are degraded more than required communication qualities (194), and a second group including radio terminals or communication connections in which actual communication qualities are favorable more than required communication qualities (190) (see fig. 7 col. 9 line 54 through col. 10 line 19), based on the required communication qualities reported from the radio terminals or communication connections, respectively (col. 6 lines 18-38).

Purnadi does not explicitly show that allocating the radio resource to the radio terminals or communication connections in said first group based on a priority order in said first group; and allocating the radio resource terminals or communication connections in said second group based on a priority order in said second group after the said first group is allocated.

In the same field of endeavor, Dupont teaches allocating the radio resource to the radio terminals or communication connections in said first group based on a priority order in said first group (col. 1 lines 30-40); and allocating the radio resource terminals or communication connections in said second group based on a priority order in said second group after the said first group is allocated (see fig. 4 – fig. 6, col. 3 line 62 through col. 4 line 47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, allocating the radio resource to the radio terminals or communication connections in said first group based on a priority order in said first

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group; and allocating the radio resource terminals or communication connections in said second group based on a priority order in said second group after the said first group is allocated, as taught by Dupont, in order to provide a method and apparatus for accessing a communication system relies on the use of varying access probabilities for subscribers or messages of varying priority.

Consider claims 2, 7, and 12, Dupont further teaches radio communication comprises: a second retrieving part retrieving a third group including radio terminals or communication connections that do not have required communication qualities (col. 5 line 61 through col. 6 line 11); a second allocating part allocating the radio resource to the radio terminals or communication connections in said third group when the radio resource is allocated to the radio terminals or communication connections in said first group and said second group by said first allocating part (col. 3 line 32 through col. 4 line 29).

Consider claims 3 and 8, Purnadi further discloses first allocating part allocates the radio resource to the radio terminals or communication connections in said first group (read on degradation profile) in an ascending order (read on upgraded) of said actual communication qualities (col. 9 lines 39-44), an descending order (read on downgraded) of differences between said required communication qualities and said actual communication qualities, or an descending order of deterioration degrees of the

actual communication qualities to the required communication qualities (col. 9 lines 34-44).

Consider claims 4 and 9, Purnadi further discloses first allocating part allocates the radio resource to the radio terminals or communication connections in said second group (read on priority level) in an ascending order of said actual communication qualities (read on priority of access), an ascending order of differences between said required communication qualities and said actual communication qualities, or favorable degrees of the actual communication qualities to the required communication qualities (col. 9 lines 6-14).

Consider claims 5 and 10, Purnadi further discloses required communication qualities are communication qualities concerning allowable delay times, transmission rates, or throughputs (col. 2 lines 27-38).

Conclusion

5. Any response to this action should be mailed to:

Mail Stop _____ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571) 272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information Consider the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan Nguyen
Examiner
Art Unit 2618

Quochien B. Vuong 10/16/08
QUOCHIEN B. VUONG
PRIMARY EXAMINER